

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

MICHAEL TEAGUE,

Plaintiff,

v.

TRAVIS COUNTY EMERGENCY
SERVICES DISTRICT 8 and
TROY WENZEL,

Defendants.

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1:23-CV-1053-DII

ORDER

Before the Court is the report and recommendation from United States Magistrate Judge Susan Hightower concerning Defendant Troy Wenzel's ("Wenzel") Motion to Dismiss, Or in the Alternative, Motion for Rule 7(a) Reply, (Dkt. 11), and Defendant Travis County Emergency Services District 8's ("District 8") Motion to Dismiss Plaintiff's Amended Complaint, (Dkt. 13). (R. & R., Dkt. 23). Pursuant to 28 U.S.C. § 636(b) and Rule 1(d) of Appendix C of the Local Rules of the United States District Court for the Western District of Texas, Judge Hightower issued her report and recommendation on May 3, 2024. (*Id.*). As of the date of this order, no party has filed objections to the report and recommendation.

Pursuant to 28 U.S.C. § 636(b), a party may serve and file specific, written objections to a magistrate judge's proposed findings and recommendations within fourteen days after being served with a copy of the report and recommendation and, in doing so, secure de novo review by the district court. When no objections are timely filed, a district court can review the magistrate's report and recommendation for clear error. *See* Fed. R. Civ. P. 72 advisory committee's note ("When no timely objection is filed, the [district] court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.").

Because no party has filed timely objections, the Court reviews the report and recommendation for clear error. Having done so and finding no clear error, the Court accepts and adopts the report and recommendation as its own order.

Accordingly, the Court **ORDERS** that the Report and Recommendation of the United States Magistrate Judge, (Dkt. 23), is **ADOPTED**.

Accordingly, **IT IS ORDERED** that Wenzel's Motion to Dismiss, Or in the Alternative, Motion for Rule 7(a) Reply, (Dkt. 11), is **GRANTED IN PART** and **DENIED IN PART**. Plaintiff Michael Teague's Section 1983 First Amendment claims against Wenzel in his official capacity are **DISMISSED**. Wenzel's motion is **DENIED** on all other grounds.

IT IS FURTHER ORDERED that District 8's Motion to Dismiss Plaintiff's Amended Complaint, (Dkt. 13), is **DENIED**.

IT IS FINALLY ORDERED that the stay pending a determination on qualified immunity is **LIFTED**.

SIGNED on May 20, 2024.



ROBERT PITMAN
UNITED STATES DISTRICT JUDGE